IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

COMPANY APPLICATION NO.139 OF 2007
IN
COMPANY PETITION NO.86 OF 1971

State Bank of India ..Applicant.
Vs.
M/s. Alcock Ashdown & Co. Ltd.
(Through Official Liquidator) ..Company.
And
Bank of Maharashtra ..Respondent.

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Mr. D.G. Dhanure i/b M.V. Kini & Co. for the Applicant.
Mr. Karl Shroff with Hema Desai i/b Singhi & Co. for Bank of Maharashtra.
Mr. P. Ramarao, Official Liquidator present.

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CORAM: **DR. D.Y. CHANDRACHUD, J.**

3rd May, 2007.

P.C. :

1. By this Company Application the State Bank of India has sought a direction to the Official Liquidator to release an amount of Rs.1,18,88,564/-, being the decretal dues of the Applicant in pursuance of the judgment and order of the Debt Recovery Tribunal

dated 23rd November, 2004. Counsel appearing for the Applicant states that the aforesaid amount represents the dues of the Applicant as on the date of the institution of the suit which was eventually transferred to the Debt Recovery Tribunal and the figure of Rs.1,18,88,564/- is exclusive of interest.

2. The Official Liquidator has stated before the Court that the dues of the workers have also been adjudicated upon and an amount of Rs.88.07 lacs is due and payable to them. In his report before the Court dated 13th December, 2006 which has been taken up together with the Company Application the Liquidator has accepted the decretal dues of the State Bank of India at Rs.118.88 lacs. However, insofar as the Bank of Maharashtra is concerned, it has been stated that the dues payable to the aforesaid bank amount to Rs.65.38 lacs as against which an amount of Rs.1,06,25,871/- was allowed to be disbursed to the bank. Hence, it has been submitted that the balance between what has been disbursed and the adjudicated claim of the Bank of Maharashtra must be directed to be brought back. At the

present stage, having regard to the fact that the claim of the State Bank of India has been duly adjudicated upon in proceedings before the Debt Recovery Tribunal, it would be appropriate and proper if the Official Liquidator is directed to disburse an amount of Rs.1,18,88,564/- to the Bank. This shall be subject to the bank filing an undertaking to abide by such further directions as may be issued by this Court for bringing back any part of the amount disbursed to the bank together with interest at such rate as may be awarded in the event that it becomes necessary to do so in order to satisfy the claims of the workers and/or other creditors holding a pari passu charge. The disbursement to the State Bank of India shall be made within a period of two weeks of the filing of an undertaking in these proceedings with a copy to the Official Liquidator.

3. Insofar as the workers claims are concerned, counsel appearing for the State Bank of India and the Bank of Maharashtra have jointly stated before the Court that they would duly inspect the records of the Official Liquidator for scrutinizing those claims of the

workers which have been found upon adjudication to be valid and proper. The Official Liquidator shall grant such inspection within a period of four weeks from today. The Official Liquidator shall be at liberty to file a report before this Court seeking appropriate directions in respect of the excess amount, if any, that has been disbursed to the Bank of Maharashtra so that necessary directions can be issued in that regard by the Court.

Company Application 139 of 2007 shall stand accordingly disposed of.